

MICHELE A. KIRALY, ESQ.
Nevada Bar No. 5036
RANDA REIFF SHEA, ESQ.
Nevada Bar No. 2475
PATTON, SHEA & KIRALY, P.C.
3016 W. Charleston Blvd., Ste. 195
Las Vegas, Nevada 89102
Telephone: (702) 870-6790
Facsimile: (702) 870-7490
rshea@psklawfirm.com

-and-

BRUCE W. AKERLY, ESQ.
Texas Bar. No. 00953200
CANTEY HANGER LLP
1999 Bryan Street, Suite 3330
Dallas, Texas 75291
Telephone: (214) 978-4129
Facsimile: (214) 978- 4150
bakerly@canteyhanger.com

(Application to Appear Pro Hac Vice Pending or to be Pending Shortly)
Attorneys for Plaintiff Combs Produce Co., LP

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

COMBS PRODUCE CO., LP,)	CASE NO. 2:10-cv-01523
)	
Plaintiff,)	
)	
vs.)	
)	
CAL-USA BROKERS, INC.; AND)	
HARRY MANETTAS,)	
)	
Defendants.)	
)	

TEMPORARY RESTRAINING ORDER

Before the Court is the Complaint of Plaintiff COMBS PRODUCE CO., LP ("**Combs**"), as well as Combs' Ex Parte Motion for Temporary Restraining Order. Having considered the pleadings, affidavits, briefs, and oral and written arguments of counsel, if any, the Court makes the

1 following findings:

2 1. Combs has shown a substantial likelihood of success on the merits of its claim against
3 Defendants CAL-USA BROKERS, INC. and HARRY MANETTAS ("**Defendants**");

4 2. Combs has shown that substantial harm will result to Combs if a temporary
5 restraining order under Rule 65 of the Federal Rules of Civil Procedure is not granted;
6

7 3. The benefits of issuing a temporary restraining order outweigh the harm which might
8 be caused to Defendants; and

9 4. The issuance of a temporary restraining order will not be adverse to the public
10 interest.
11

12 5. Sufficient grounds in the breaking off by CAL-USA BROKERS, INC. And HARRY
13 MANETTAS have been shown of what had been regular contact between the parties to justify the
14 issuance of this order without notice.

15 Therefore, it is ORDERED that Defendants, their officers, directors, employees, agents,
16 representatives and assigns, shall immediately place into a segregated interest-bearing account, to
17 be established at a nationally chartered banking institution, any and all proceeds, cash or other funds
18 (to be designated the "CAL-USA PACA Trust Fund Account"), which are:

19 (a) presently in the possession of Defendants, actual or constructive; and/or
20 (b) which come into the possession, actual or constructive, of Defendants in the future,
21 resulting from the sale of perishable agricultural commodities or products thereof, as defined by the
22 terms of the Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. 499a, *et seq.*
23 ("**PACA**") and regulations promulgated thereunder, and/or represented by Defendants' accounts
24 receivable and/or the sale, transfer, liquidation or other disposition of any inventory-on-hand or the
25 disposition of any perishable agricultural commodity or product thereof which may come into
26 Defendants' possession after the date this order is signed. The Cal-USA PACA Trust Fund Account
27
28

1 shall remain in effect until such time as this Court orders otherwise.

2 It is further ORDERED that, within three (3) business days from the date this order is signed,
3 Defendants shall serve on counsel for Combs, (a) satisfactory evidence of the establishment and
4 funding of the CAL-USA PACA Trust Fund Account and shall file and served on Combs's counsel
5 monthly statements, if necessary, relating to the CAL-USA PACA Trust Fund Account which
6 identify the balance of the account and deposits made thereto, (b) a current accounts payable ledger,
7 and (c) a current accounts receivable ledger (with aging). Defendants shall also provide Combs with
8 access to its business and financial records including but not limited to banking and financial
9 records.
10

11 It is further ORDERED that Defendants, their officers, directors, employees, agents,
12 representatives, and assigns, and financial institutions and banks where Defendants maintain
13 accounts of any kind or nature, who receive notice of this Order, shall be and are hereby immediately
14 enjoined from (a) withdrawing any amounts from the CAL-USA PACA Trust Fund Account for any
15 purpose, (b) pledging, assigning, transferring or otherwise encumbering any amounts in the CAL-
16 USA PACA Trust Fund Account, and (c) taking any action which may constitute the transfer,
17 pledging, assigning, or otherwise encumbering PACA Trust assets (including those amounts required
18 to be placed into the CAL-USA PACA Trust Fund Account) without first notifying Combs' counsel
19 and obtaining approval from the Court.
20

21 It is further ORDERED that this Temporary Restraining Order shall expire at 5:00 o'clock
22 p.m. on 9/14, 2010, unless it is further extended by the Court. A final hearing on this matter is set
23 for September 14, 2010, at o'clock 9:30 AM
24

25 The Court further finds that no bond shall be required to effectuate this Temporary
26 Restraining Order.
27

28 This temporary restraining order shall not constitute a waiver by any party of their right to

1 assert any claim or defense in this adversary action.

2 DATED: September 8, 2010

3
4 
5 _____
6 UNITED STATES DISTRICT JUDGE

7 Submitted by:

8 PATTON, SHEA & KIRALY, P.C.

9
10 _____
11 MICHELE A. KIRALY, ESQ.
12 RANDA REIFF SHEA, ESQ.
13 3016 W. Charleston Blvd., Ste. 195
14 Las Vegas, Nevada 89102

15 -and-

16 BRUCE W. AKERLY, ESQ.
17 Texas Bar. No. 00953200
18 CANTEY HANGER LLP
19 1999 Bryan Street, Suite 3330
20 Dallas, Texas 75291
21 Attorneys for Plaintiff
22
23
24
25
26
27
28